

REMARKS

After entry of the subject Amendment, claims 31-33, 35, 37 and 48-55 will remain in the application with claim 31 being in independent form. Claims 1-5, 7-13 and 16-19 are being cancelled and claims 6, 14-15, 20-30, 34, 36 and 38-47 were previously cancelled. No amendments are being made to the pending claims.

A Notice of Panel Decision from Pre-Appeal Brief Review was mailed on 09/12/2006 indicating that claims 31-33, 35, 37 and 48-55 are allowed and claims 1-5, 7-13, 16 and 18-19 remain rejected. Applicant respectfully submits that the standing rejections remain improper. However, in order to expedite the allowance of the subject application, Applicant has cancelled all of the rejected claims. Applicant reserves the right to re-file these claims in a co-pending continuation application.

Applicant notes the procedures regarding an amendment filed after appeal under 37 CFR § 41.33, which state that such an amendment may be admitted as provided in 37 CFR § 1.116. In particular, amendments filed after the filing of a notice of appeal, but prior to filing a brief, may be admitted to cancel claims, comply with any requirements of form, present rejected claims in better form for appeal, or amend the specification or claims upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented. As stated at MPEP Section 1206, if the amendment clearly places the application in condition for allowance, the Examiner may enter the amendment and allow the application.

It is respectfully requested that this § 41.33 amendment be admitted because the applicant is merely canceling the rejected claims and accepting the allowed claims from the Notice of Panel Decision and there are no new issues being presented. This amendment was not presented earlier as claims 31-33, 35, 37 and 48-55 were not allowed until the Notice of Panel Decision. To that end, it is respectfully submitted that the Application is now presented in condition for allowance, which allowance is respectfully solicited.

U.S.S.N.: 10/619,913

The Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys, P.C. for any fees or credit the account for any overpayment for this matter.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

Dated: October 10, 2006

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